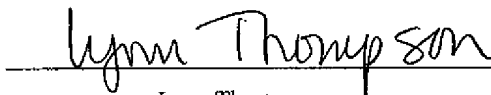


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellants: Scott Fergusson et al. Examiner: Romain Jeanty
Serial No.: 09/916,951 Group Art Unit: 3623
Filed: July 27, 2001 Docket No.: 1137.1103101
Confirmation No.: 9341
For: METHODS AND SYSTEMS FOR MONITORING THE EFFICACY
 OF A MARKETING PROJECT

APPEAL BRIEF

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Pursuant to 37 C.F.R. § 41.37, Appellants hereby submit this Appeal Brief in furtherance of the Notice of Appeal filed on January 8, 2007 and of the Notice of Panel Decision from Pre-Appeal Review dated February 6, 2007. Appellants authorize the fee prescribed by 37 C.F.R. § 41.20(b)(2) in the amount of \$250.00 to be charged to Deposit Account No. 50-0413. Permission is hereby granted to charge or credit Deposit Account No. 50-0413 for any errors in fee calculation.

Please consider this a ONE MONTH PETITION FOR EXTENSION OF TIME to enter these papers. Appellants authorize the extension fee in the amount of \$60.00 be charged to Deposit Account No. 50-0413. Please charge any additional fees or credit overpayment to Deposit Account No. 50-0413.

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I. REAL PARTY IN INTEREST

The real party in interest is the assignee of record, Investigo Corporation, a corporation organized and existing under and by virtue of the laws of the State of Minnesota, and having a business address of 5127 Skyline Drive, Suite 100, Edina, Minnesota 55436. An assignment from the inventors, Scott Fergusson and Tom Rozman, conveying all right, title and interest in the invention to Investigo Corporation, has been recorded at Reel 012192, Frame 0886.

II. RELATED APPEALS AND INTERFERENCES

This application is related to US Patent Application No. 09/917,120, for which an Appeal Brief was filed December 4, 2006.

III. STATUS OF CLAIMS

Claims 7 and 27 have been cancelled from the application. Claims 1-6, 8-26, and 28-36 are rejected as not being enabled under 35 U.S.C. § 112, first paragraph. Claims 1, 10, 11, 25, and 31 are rejected as being indefinite under 35 U.S.C. § 112, second paragraph. Claims 1-18, 20-30, and 36 are rejected as being unpatentable under 35 U.S.C. § 103(a) over Melchione et al. (U.S. Patent No. 5,930,764). Claims 19 and 31-35 are rejected as being unpatentable under 35 U.S.C. § 103(a) over Melchione et al. (U.S. Patent No. 5,930,764) in view of 17 CFR Part 248. All pending claims, namely claims 1-6, 8-26, and 28-36, are being appealed.

IV. STATUS OF AMENDMENTS

The after final amendment filed November 8, 2006 has been entered.

V. SUMMARY OF CLAIMED SUBJECT MATTER¹

Generally, the invention relates to methods and systems for producing and/or monitoring the efficacy of a marketing project. In some illustrative embodiments, a customer database is provided that stores information related to each customer of a firm or business that has a number of representatives, where each representative has a personal/professional relationship with his or her customers (e.g. a brokerage house). To identify the customers that are likely to be interested

¹ The references to the specification and drawings provided herein are only illustrative and not limiting in any way.

in a particular product, a number of marketing project parameters can be defined and run against the information in the customer database to identify those customers that fall within the marketing project parameters. The identified customers can be sorted by representative, and personalized listings of identified customers can be provided to the representatives. Identified customers may then be provided the marketing material, and subsequent sales of a product(s) may be recorded in the customer database. A marketing project efficacy indicator can then be determined by, for example, comparing the number of customers that were identified as relevant for the product(s) with the number of those same customers that actually purchased or did not purchase the product(s), preferably within a given time period.

Turning now to the claims, independent claim 1 recites a method for monitoring the efficacy of a marketing project for a product of a business, the business having a number of representatives (FIG. 3, reference 76), and each representative represents particular customers (FIG. 3, reference 78) of the business (see, for example, specification at page 3, lines 5-11 and 25-27; page 11, lines 9-10; page 21, lines 8-11). Claim 1 further recites a customer database (FIG. 3, reference 30) for storing information about the customers of the business is provided, along with a number of marketing project parameters (FIG. 3, reference 74) (see, for example, specification at page 2, lines 5-11, page 7, lines 2-4 and 28 through page 8, line 2, page 8, line 20 through page 9, line 4). Claim 1 further recites that the marketing project parameters are applied against the information in the customer database to identify selected customers (see, for example, page 10, line 27 through page 11, line 9). A customized listing of customers (FIG. 3, reference 77) is then provided to at least selected representatives, where the customized listings including a listing of the selected customers that the particular representative represents (see for example, specification at page 9, lines 15-18, page 11, lines 9-17; page 14, lines 21-30; page 15, lines 16-26; FIGS. 2, 3, 5, 6).

Marketing material for the marketing project is generated and provided to each of the representatives that receives a customized listing of customers, and at least some of the representatives send the marketing material to at least some of the selected customers listed in their customized listing (see, for example, page 11, lines 18-21; page 12, lines 12-31; FIG. 4). Claim 1 further recites that at least part of the marketing material includes textual matter (see, for example, page 4, lines 14-17; page 15, line 30 through page 16, line 6; page 16, lines 15-26; FIG.

4). The method of claim 1 further includes determining which or how many of the customers that were sent the marketing material by their representative actually purchased the product, and determining a marketing project efficacy indicator by noting which or how many of the customers that were sent the marketing material by their representative actually purchased the product (see, for example, page 11, lines 21-26).

Dependent claim 2 recites the method of claim 1 where the marketing project efficacy indicator is determined by comparing the number of customers that were sent the marketing material by their representative with the number of the customers that were sent the marketing material by their representative and actually purchased the product (see, for example, specification at page 11, lines 23-26; page 18, lines 25-30; FIGS 7-12). Dependent claim 3 recites the method of claim 1 where the marketing project efficacy indicator is determined by comparing the number of customers that were sent the marketing material by their representative with the number of the customers that were sent the marketing material by their representative and did not purchased the product (see, for example, specification at page 11, lines 23-26; page 18, lines 25-30; FIGS 7-12).

Dependent claims 4 and 5 recite the method of claim 1 with the additional step of monitoring revenues generated from the purchase of the product by the customers that were sent the marketing material by their representative, and determining the marketing project efficacy indicator by comparing the revenues generated from the sale of the marketed product relative to a revenue goal (see, for example, page 11, lines 26-28). Dependent claim 6 recites the method of claim 1 where the marketing project efficacy indicator is determined by comparing the number of products sold versus a goal (see, for example, page 11, lines 28-31).

Dependent claims 8 and 9 recite the method of claim 1 with the additional steps of modifying the marketing material (claim 8) or modifying selected marketing project parameters (claim 9) if the marketing project efficacy indicator is deemed to be too low (see, for example, page 12, lines 3-11).

Independent claim 10 recites a method for marketing a product to customers of a business that has a number of representatives (FIG. 3, reference 76), and each representative represents particular customers (FIG. 3, reference 78) of the business (see, for example, specification at page 3, lines 5-11 and 25-27, page 11, lines 9-10). Claim 10 further recites a customer database

(FIG. 3, reference 30) for storing information about the customers of the business is provided, along with a number of marketing project parameters (FIG. 3, reference 74) (see, for example, specification at page 2, lines 5-11, page 7, lines 2-4 and 28 through page 8, line 2, page 8, line 20 through page 9, line 4). Claim 10 further recites that the marketing project parameters are applied against the information in the customer database to identify selected customers (see, for example, specification at page 10, line 27 through page 11, line 9). A customized listing of customers (FIG. 3, reference 77) is provided to at least some of the representatives, the customized listings including the portion of the selected customers that are represented by the particular representative (see for example, specification at page 11, lines 9-17; page 15, lines 16-26; page 17, lines 20-21; FIG. 6). Claim 10 further recites that at least some of the representatives send the marketing material about the product to at least some of their customers listed on their customized listing (see, for example, specification at page 11, lines 18-21; page 12, lines 12-31; FIG. 4). Claim 10 further recites that the marketing material is personalized to at least appear to be from the representative (see, for example, specification at page 15, line 27 through page 16, line 6; page 16, line 27 through page 17, line 2). Claim 10 also recites that at least part of the marketing material includes textual matter (see, for example, page 4, lines 14-17; page 15, line 30 through page 16, line 6; page 16, lines 15-26; FIG. 4).

Dependent claim 11 recites the method of claim 10 with the added step of monitoring how many and/or which of the customers that were provided marketing material about the product actually purchased the product from their representative (see, for example, specification at page 11, lines 23-26; page 18, lines 25-30; FIGS 7-12). Dependent claim 12 recites the method of claim 11 including the step of determining a marketing project efficacy indicator by examining which of the customers that were provided with marketing material about the product actually purchased the product (see, for example, specification at page 11, lines 23-26; page 18, lines 25-30; FIGS 7-12). Dependent claim 13 recites the method of claim 12 where the marketing project efficacy indicator is determined by comparing the number of customers that were provided marketing material with the number of those customers that were provided marketing material that actually purchased the product from a representative of the business (see, for example, specification at page 11, lines 23-26; page 18, lines 25-30; FIGS 7-12).

Dependent claim 14 recites the method of claim 11 with the added step of determining

common characteristics for those customers that actually purchased the product from a representative of the business (see, for example, specification at page 10, lines 23-26). Dependent claims 15-17 recite the method of claim 10 including the steps of monitoring how many and/or which of the customers that were provided marketing material about the product did not purchase the product from their representative of the business (claim 15), determining a marketing project efficacy indicator for the marketing project by examining which of the customers that were provided with marketing material about the product did not purchase the product (claim 16), and comparing the number of customers that were provided marketing material with the number of those customers that were provided marketing material that did not purchased the product from a representative of the business (claim 17) (see, for example, specification at page 11, lines 23-26; page 18, lines 25-30; FIGS 7-12). Dependent claim 18 recites the method of claim 15 including the step of determining common characteristics for those customers that did not purchase the product from a representative of the business (see, for example, specification at page 10, lines 23-26).

Dependent claim 19 recites the method of claim 10 in which the business is a financial services business, and the method includes the steps of generating marketing material, checking the marketing material for compliance with applicable rules and regulations, thereby resulting in compliant marketing material, and providing the compliant marketing material, as well as the customized listing of selected customers, to each of the representatives that received a customized listing (see, for example, specification at page 14, lines 4-13; page 16, lines 12-26; page 22, lines 2-12; FIGS. 4, 6, 14A, 14B).

Dependent claims 20-24 recite the method of claim 10 in which the customized listing of the selected customers is provided to each of the representatives that received a customized listing in a format that is compatible with printing labels (claim 20), printing envelopes or post cards (claim 21), a merge function of an application program (claim 22), a spreadsheet application program (claim 23), or an e-mail program (claim 24) (see, for example, specification at page 16, lines 2-11; FIG. 6).

Independent claim 25 recites a method for marketing a product to customers of a business having a number of representatives (FIG. 3, reference 76), and each representative represents a portion of the customers (FIG. 3, reference 78) of the business (see, for example, specification at

page 3, lines 5-11 and 25-27, page 11, lines 9-10). Claim 25 further recites a customer database (FIG. 3, reference 30) for storing information about the customers of the business is provided, along with a marketing project having a number of marketing project parameters (FIG. 3, reference 74) (see, for example, specification at page 7, lines 2-4 and 28 through page 8, line 2; page 8, line 20 through page 9, line 4; page 10, line 27 through page 11, line 6; FIG. 3). Claim 25 also recites that the marketing project parameters are applied against the information in the customer database to identify selected customers (see, for example, specification at page 10, line 27 through page 11, line 9). Claim 25 further recites that a notice is provided announcing the marketing project to one or more of the representatives (see, for example, specification at page 15, lines 4-11; FIG. 5, reference 206). Claim 25 further recites that at least some of the representatives review the notice and request a customized listing that includes a listing of the portion of the selected customers that are represented by the representative (see, for example, specification at page 15, lines 11-26; FIGS. 5, 6). The method also involves determining a marketing project appeal indicator by monitoring how many representatives reviewed the notice and requested a customized listing (see, for example, specification at page 12, lines 12-30; page 13, lines 8-12; FIG. 4, reference 92).

Dependent claim 26 recites the method of claim 25 in which the customized listing of selected customers is provided to one or more of the representatives upon initiation by the representative (see, for example, specification at page 15, lines 16-26; page 17, lines 27-31; FIG. 5, reference 206; FIG. 6, reference 208; FIG. 7). Dependent claim 28 recites the method of claim 25 with the added step of making a contact entry in the customer database when a representative contacts a customer about the product, and determining a marketing project appeal indicator by monitoring the contact entries in the customer database (see, for example, specification at page 18, line 18 through page 19, line 9; FIG. 8, reference 232). Dependent claim 29 recites the method of claim 25 in which the customized listing of the selected customers that is provided to a particular representative only includes customers that the particular representative represents (see, for example, specification at page 15, lines 23-26; FIG 6, reference 208). Dependent claim 30 recites the method of claim 25 in which an identifier for each customer that actually purchased the product is generated by having each representative initiate the recording of each sale of the product in the customer database (see, for example, specification at page 18, lines 25-26).

Independent claim 31 recites a method for marketing a product to customers of a business having a number of representatives (FIG. 3, reference 76), where each representative represents particular ones of the customers (FIG. 3, reference 78) of the business (see, for example, specification at page 3, lines 5-11 and 25-27, page 11, lines 9-10). Claim 31 also recites the steps of generating marketing material, where at least part of the marketing material include textual matter, and checking the marketing material for compliance with applicable rules and regulations, thereby resulting in compliant marketing material (see, for example, specification at page 14, lines 4-13; page 16, lines 12-26; page 22, lines 2-12; FIGS. 4, 6, 14A, 14B). Claim 31 also recites the steps of providing a customer database (FIG. 3, reference 30) for storing information about the customers of the business and providing a number of marketing project parameters (FIG. 3, reference 74) (see, for example, specification at page 2, lines 5-11, page 7, lines 2-4 and 28 through page 8, line 2, page 8, line 20 through page 9, line 4). Claim 31 also recites that the marketing project parameters are applied against the information in the customer database to identify selected customers (see, for example, specification at page 10, line 27 through page 11, line 9). Claim 31 also recites that the compliant marketing material and a customized listing of customers is provided to at least some of the representatives (see for example, specification at page 11, lines 9-17; page 15, lines 16-26; page 17, lines 20-21; FIG. 6). Claim 31 further recites that at least some of the representatives provide the compliant marketing material to at least some of the customers listed on their customized listing of selected customers (see, for example, specification at page 11, lines 18-21; page 12, lines 12-31; page 14, lines 4-15; page 16, lines 12-26; FIGS. 4-6).

Dependent claim 32 recites the method of claim 31 in which the rules and regulations are related to a particular product (see, for example, specification at page 14, lines 5-7). Dependent claim 33 recites the method of claim 31 with the additional step of monitoring how many and/or which of the customers that were actually provided marketing material about the product actually purchased the product from their representative (see, for example, specification at page 18, lines 25-30). Dependent claim 34 recites the method of claim 33 with the additional step of determining a marketing project efficacy indicator for the marketing project by comparing the number of customers that were actually provided marketing material with the number of those customers that were actually provided marketing material that actually purchased the product

from their representative (see, for example, specification at page 18, lines 25-30). Dependent claim 35 recites the method of claim 31 with the additional step of determining common characteristics for those customers that actually purchased the product from their representative (see, for example, specification at page 10, lines 23-26).

Independent claim 36 recites a method for monitoring the efficacy of a marketing project for a product of a business having a number of representatives, where each representative represents particular customers of the business, and the customers of one representative are only represented by that representative (see, for example, specification at page 3, lines 5-11 and 25-27, page 11, lines 9-10; page 14, lines 21-27; page 15, lines 23-26; FIG. 6, reference 208). Claim 36 further recites the steps of providing a customer database for storing information about the customers of the business, providing a number of marketing project parameters, applying the number of marketing project parameters against the information in the customer database to identify selected customers, providing a customized listing of customers to at least selected representatives, where each of the customized listings includes a listing of the selected customers that the particular representative represents, and where the customers are represented by a single representative (see, for example, specification at page 7, lines 2-4 and 28 through page 8, line 2, page 8, line 20 through page 9, line 4; page 11, lines 9-17; page 15, lines 16-26; page 17, lines 20-21; FIG. 6). Claim 36 also recites that the marketing material is generated for the marketing project, where the marketing material is provided to each of the representatives that receives a customized listing, and at least some of the representatives send the marketing material about the product to at least some of their customers listed on their customized listing (see, for example, specification at page 11, lines 18-21; page 12, lines 12-31; page 14, lines 4-5; FIG. 4). Claim 36 further recites the steps of determining which or how many of the customers that were sent the marketing material by their representative actually purchased the product (see, for example, specification at page 11, lines 23-26; page 18, lines 25-30; FIGS 7-12), and determining a marketing project efficacy indicator by noting which or how many of the customers that were sent the marketing material by their representative actually purchased the product (see, for example, specification at page 11, lines 23-26; page 18, lines 25-30; FIGS 7-12).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claims 1-6, 8-26, and 28-36 are unpatentable under 35 U.S.C. § 112, first paragraph, as being based on a non-enabling disclosure.
2. Whether claims 1, 10, 11, 25, and 31 are unpatentable under 35 U.S.C. § 112, second paragraph, as being indefinite.
3. Whether claims 1-18, 20-30, and 36 are unpatentable under 35 U.S.C. § 103(a) as being obvious over Melchione et al. (U.S. Patent No. 5,930,764).
4. Whether claims 19 and 31-35 are unpatentable under 35 U.S.C. § 103(a) as being obvious over Melchione et al. (U.S. Patent No. 5,930,764) in view of 17 CFR Part 248.

VII. ARGUMENT

A. Claims 1-6, 8-26, and 28-36 are enabled under 35 U.S.C. § 112, first paragraph.

Claims 1-6, 8-26, and 28-36 stand rejected as failing to comply with the enablement requirement because the specification does not describe "textual matter" as is recited in some of the claims. Appellants respectfully traverse this rejection. Appellants note that claims 25, 26, 28-30, and 36 do not recite "textual matter," thus the inclusion of these claims in the rejection appears to be clearly improper. MPEP 2164.01 provides the test of enablement:

Any analysis of whether a particular claim is supported by the disclosure in an application requires a determination of whether that disclosure, when filed, contained sufficient information regarding the subject matter of the claims as to enable one skilled in the pertinent art to make and use the claimed invention. The standard for determining whether the specification meets the enablement requirement was cast in the Supreme Court decision of *Mineral Separation v. Hyde*, 242 U.S. 261, 270 (1916) which postured the question: is the experimentation needed to practice the invention undue or unreasonable? That standard is still the one to be applied. *In re Wands*, 858 F.2d 731, 737, 8 USPQ2d 1400, 1404 (Fed. Cir. 1988).

(Emphasis added). Appellants submit that the disclosure provides sufficient information so that one of ordinary skill in the art would be able to perform the claimed method step of providing marketing material that includes textual matter, and that one skilled in the art could provide such textual material without undue experimentation. The amount of experimentation for one skilled in the art to provide marketing material as textual matter is neither undue nor unreasonable.

It appears the rejection may have been intended to be based on lack of written description

instead of lack of enablement. Even so, Appellants submit that the specification as filed does provide an adequate written description of the method step of providing marketing material that includes textual matter. For example, page 4, lines 14-17 state:

To reduce the time and effort required by the representative to participate in the marketing project, the personalized listings may be delivered in a format that aids the representatives in preparing envelopes, post cards, letters, marketing materials, e-mails, etc.

Page 15, line 30 through page 16, line 6 states:

For example, to help create personalized letters or marketing materials, the personalized listing may be provided in a format that is compatible with a merge function of an application program such as Microsoft Word®. In this format, the representative can merge the names, addresses and/or other fields into personalized letters or marketing materials.

Page 16, lines 15-18 states:

The dialog box 213 of Figure 6 displays various compliant marketing documents that have been developed for the “Uncover Variable Annuity sales in your own Business immediately” marketing project. The representative may download any of these documents via button 214.

Appellants submit that one of ordinary skill in the art, upon reviewing the above specific teachings in the specification, would clearly understand that the marketing materials may include “textual matter”. Additionally, MPEP 2163.02 states:

The subject matter of the claim need not be described literally (i.e., using the same terms or in *haec verba*) in order for the disclosure to satisfy the description requirement.

Appellants submit that while the specification may not explicitly recite the specific phrase “textual matter”, one of ordinary skill in the art would understand that “textual matter” can be included in the description of the marketing material. Notably, the phrase “textual matter” is included in the *WordNet® 2.0* dictionary as “n : the words of something written;...” (see, “textual matter.” *WordNet® 2.0*. Princeton University. 08 Nov. 2006. <[Dictionary.com http://dictionary.reference.com/browse/textual_matter](http://dictionary.reference.com/browse/textual_matter)>). Thus, Appellants do not believe that it can readily be argued that the phrase “textual matter” would not be understood by one skilled in the art. Further, Appellants submit that providing marketing material in “textual matter” format would not have required undue or unreasonable experimentation, and is thus adequately

described in the specification to satisfy the enablement requirements of 35 U.S.C. § 112, first paragraph.

Claims 1-6, 8-26, and 28-36 are rejected as failing to comply with the enablement requirement for reciting "customized." Appellants respectfully traverse the rejection. As stated above, the test of enablement according to MPEP 2164.01 is whether the disclosure, when filed, contained sufficient information regarding the subject matter of the claims as to enable one skilled in the pertinent art to make and use the claimed invention, and whether the experimentation needed to practice the invention would be undue or unreasonable. Appellants submit that the disclosure provides sufficient information to enable one skilled in the art to provide a customized listing of customers to selected representatives, where each of the customized listings includes a listing of the selected customers that the particular representative represents, as is recited in independent claim 1. The claim itself provides a definition of "customized" listing of customers as including a listing of the selected customers that the particular representative represents. Appellants submit that one of ordinary skill in the art would understand the meaning of "customized" in the context of the claim, and that no undue or unreasonable experimentation would be required for one to perform the claimed methods.

Additionally, the disclosure as filed recites, for example, at page 9, lines 13-17:

Once defined, and in the illustrative embodiment, the marketing project parameters may be run against the information in the database 30a to identify selected customers. Once identified, the customers may be sorted by user 54a, 54b and 54c, if desired, and a personalized listing of identified customers can be provided to each user 54a, 54b and 54c.

and at page 21, lines 9-11, "Step 308 allows those firm representatives to obtain a personalized listing of the identified customers that he/she represents." Appellants submit that the disclosure as filed provides adequate enablement for one of ordinary skill in the art to perform the claimed methods including the step of providing a "customized" listing of customers that includes a listing of the selected customers that the particular representative represents, as is recited in the claims. As stated above, the subject matter of the claim need not be described literally (i.e., using the same terms or in *haec verba*) in order for the disclosure to satisfy the description requirement (MPEP 2163.02). Appellants submit that while the specification may not explicitly recite "customized", and in fact recites the term "personalized", one of ordinary skill in the art

would understand that the "customized" or "personalized" listing of customers includes those customers selected based on the project parameters, where the customers are also represented by the particular representative.

MPEP 2164 states that the enablement and written description requirements have separate and distinct criteria. The above rejection of the claims as not being enabled is an error because it cannot readily be argued that "textual matter" or "customized" would not be understood by one skilled in the art. Additionally, as shown above, the specification provides a written description of "textual matter" and "customized" lists. Appellants submit that the claims and specification satisfy both the enablement and written description requirements of 35 U.S.C. § 112, first paragraph.

B. Claims 1, 10, 11, 25, and 31 are definite under 35 U.S.C. § 112, second paragraph.

1. Claims 1, 10, 25, 31

Claims 1, 10, 25, and 31 are rejected as being indefinite for reciting "customized" which is unclear and indefinite. Appellants respectfully traverse the rejection. As detailed above, Appellants submit that the word "customized" is easily understood by one of ordinary skill in the art, particularly when read in light of the present specification. Also, breadth of a claim does not equate to indefiniteness. Additionally, claims 1, 10, and 25 recite the specific content of the customized listing, and one of ordinary skill in the art would clearly understand the meaning of "customized" in the context of the claims, the present specification, and on the ordinary usage of the word.

2. Claim 11

Claim 11 is rejected as being indefinite for reciting "and/or" which is asserted as being unclear and indefinite. The Examiner has interpreted the phrase to mean "or". Appellants respectfully traverse the rejection. Appellants submit that one of ordinary skill in the art understands that "and/or" is merely a shortened way of expressing two specific ideas. In claim 11, one of ordinary skill in the art would clearly understand the phrase "and/or" to mean the method step is either (1) monitoring one of how many or which of the customers that were provided marketing material about the product actually purchased the product from their representative, or (2) monitoring both how many and which of the customers that were provided

marketing material about the product actually purchased the product from their representative.

Appellants submit that the scope of the claimed subject matter is clear. MPEP 2173.04 states:

Breadth of a claim is not to be equated with indefiniteness. In re Miller, 441 F.2d 689, 169 USPQ 597 (CCPA 1971). If the scope of the subject matter embraced by the claims is clear, and if Appellants have not otherwise indicated that they intend the invention to be of a scope different from that defined in the claims, then the claims comply with 35 U.S.C. 112, second paragraph.

Appellants submit that while the use of "and/or" in claim 11 may affect the scope of the claim, the scope of the subject matter embraced by the claim is clear. Additionally, a search of the USPTO database shows the phrase "and/or" is found in the claims of 130,066 issued US patents, suggesting the phrase is acceptable claim language to the US Patent Office.

Appellants submit that the recitations in the claims of "and/or" and "customized" are clear and definite and meet the requirements of 35 U.S.C. § 112, second paragraph.

C. Claims 1-18, 20-30, and 36 are patentable under 35 U.S.C. § 103(a) over Melchione et al. (U.S. Patent No. 5,930,764).

1. *The Examiner's interpretation of Melchione et al. is unsupported*

Claims 1-18, 20-30, and 36 are rejected as being unpatentable over Melchione et al. (US 5,930,764). The Examiner has failed to establish a *prima facie* case of obviousness. In the body of the rejection, the Examiner asserts that Melchione teach providing a customized listing of customers to at least selected representatives, wherein each of the customized listings includes a listing of the selected customers that the particular representative represents, but does not provide any indication of where in Melchione et al. such a teaching is found. The Examiner later acknowledges that Melchione et al. fail to teach customized lists.

Appellants submit that the Examiner's second statement is correct because Melchione et al. do not appear to teach customized lists. The Examiner also asserts that Melchione teach, at column 8, lines 61-66, the steps of generating marketing material for the marketing project and providing the marketing material to each of the representatives that receives a customized listing, where the branch managers request leads, and the leads, or marketing material would be specific to that branch, i.e. the branch represents a certain portion of the leads, based upon geography or types of transactions. Appellants respectfully disagree with the Examiner's interpretation of

Melchione.

The portion of Melchione cited by the Examiner actually states:

A plurality of micromarketing workstations may be used within the micromarketing center to respond to requests from branch managers for lists of leads for selected sales programs (i.e., marketing campaigns for new or existing products or services offered by the financial institution).

Column 8, lines 61-66. Appellants submit that Melchione simply teach that branch managers request lists of leads for certain sales programs. Melchione then teach:

The branch managers receive the list of leads generated by the micromarketing center and electronically load the leads into the CCIS workstations for distribution among selected personal bankers within the branch. The branch managers assign the leads to the personal bankers most qualified to handle the leads, or based on the workload and availability of the personal bankers.

(Emphasis added; see column 9, lines 46-52). Melchione thus teach that the personal bankers (representatives) are assigned a list of leads based on workload or availability of the representatives. Melchione clearly do not teach, disclose or suggest providing a customized listing of customers to the personal bankers, where the customized listing includes a listing of selected customers that the particular personal banker represents. The Examiner asserts that customers that are pulled up in a query by each banker would be those that the banker represents since they are in his territory. The Examiner appears to be equating the geographical region where a bank customer lives and his/her proximity to a bank branch with that person being "represented" by a particular personal banker. Appellants submit that such an interpretation is contrary to the ordinary use of the term "represent".

Appellants submit that one of ordinary skill in the art would understand that merely because a person lives in close proximity to a particular bank branch does not mean that person is represented by the branch, or more particularly, by a particular banker at that branch. The skilled artisan would understand that a person's bank preference involves many factors, not just location. Additionally, even if a person were a customer of a particular bank branch, he/she is not necessarily represented by any particular personal banker, without some prior established relationship. This is clear from the above quoted teaching of Melchione that branch managers assign leads to a personal banker based his/her qualifications or workload and availability. There is no indication that the bank customers in the system of Melchione are represented by any

particular personal bankers (representatives).

Additionally, Melchione teach the branch managers requesting a listing of customers. Melchione does not appear to teach or suggest a banker (representative) making the query. Thus, Melchione does not appear to teach or suggest a method in which a customized listing of customers is provided to selected representatives, where each customized listing includes a listing of those customers that were selected based on marketing project parameters and which customers are also represented by that particular representative (banker).

The Examiner asserts that Melchione teaches determining which or how many of the customers that were sent the marketing material by their representatives actually purchased the product, pointing to column 41, lines 63-67 for support. The Examiner appears to be equating Melchione's teaching that "sales tracking component provides an indication of the amount of revenue generated for the financial institution by each personal banker" with the claimed method steps. The claimed method step involves two separate determinations: (1) which customers were sent marketing material; and (2) which or how many of the customers in (1) actually purchased the product. Melchione's step of determining the amount of revenue generated by each personal banker clearly does not involve these steps. Melchione's method appears to only determine the resulting revenue generated by a banker, without regard to how many customers received marketing material or how many of those customers actually purchased the product. Melchione's method appears to only determine the revenue generated by a banker, without regard to how many customers received marketing material or how many of those customers actually purchased the product. Appellants submit that the Examiner's interpretation of Melchione is contrary to the specific teachings of Melchione and is thus not supported by Melchione.

2. *Claims 1, 4-6, 8, 9*

The Examiner also asserts that the system of Melchione provides detailed access to the sales transactions for each banker and one can view the sales results for the various campaigns to track the performance and make adjustments in the campaign as needed. It appears the Examiner is asserting that one could modify the specific method steps taught by Melchione to achieve the specific method steps recited in the instant claims. MPEP 2143.01 III states:

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)...

Although a prior art device 'may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so.' 916 F.2d at 682, 16 USPQ2d at 1432.).

Appellants submit that just because one could view the sales results of Melchione and choose to perform the claimed method steps does not render the claims obvious because Melchione does not provide any suggestion, motivation, or desirability of making such changes. The Examiner has not provided any indication of why one of ordinary skill in the art would have been motivated to make the changes to the method of Melchione needed to achieve the claimed method.

The Examiner acknowledges that Melchione fails to teach customized lists, but asserts that the act of querying a database to select customers in an assigned territory that generates a list of leads is deemed equivalent because it performs an identical function in substantially the same manner with substantially the same results. Appellants respectfully disagree. The claimed step requires providing a customized listing of customers where the customized listing includes a listing of the selected customers that the particular representative represents. Thus, the listing of customers is customized to a particular representative in that the listing only includes those customers actually represented by that particular representative.

Appellants submit that Melchione does not teach any method steps that perform the identical function in substantially the same manner with substantially the same results. As noted above, Melchione teaches a branch manager querying a database to select customers based on suitability for a sales campaign, and then assigning the leads to personal bankers most qualified to handle the leads or based on the workload and availability of the personal bankers. See column 9, lines 46-52. The function of this step appears to be distributing leads to personal bankers according to either the bankers' qualifications or workload/availability. The function of the claimed method step is to provide a listing of customers represented by a representative where those customers are selected based on marketing project parameters. The customers on the claimed customized list thus have two characteristics: (1) they are already represented by the representative, and (2) they meet the marketing project parameters. The customers on the list of Melchione have different characteristics: (1) they apparently live near the branch bank, and (2) they meet the sales campaign criteria.

Further, the results of the claimed method step of providing a customized listing of

customers and the method step of receiving a list of leads taught by Melchione are not the same. The result of the claimed method step is that a listing is provided to a representative including a list of his/her customers who match the marketing project parameters. The result of Melchione appears to be a listing of customers who live in the geographic area of the bank branch and who match the sales campaign parameters. As discussed above, Appellants submit that just because a person lives near a bank branch does not mean he/she is represented by a particular personal banker at that branch. One of ordinary skill in the art would clearly understand that the phrase "customers that the particular representative represents" denotes a pre-existing relationship between the customer and representative. The only relationship that the Examiner asserts as existing in the system and method of Melchione is that the customer lives near the bank branch. Appellants submit that these relationships are clearly not equivalent, and that the results of the claimed method steps and the method steps of Melchione are not equivalent.

The Examiner also asserts that it would have been obvious to modify the lead system of Melchione with a customizable feature to provide means for segregating customers to the optimal sales person, by product line or geography. This assertion appears to support Appellants' position that Melchione neither teaches nor suggests the claimed method step of providing a customized listing of customers wherein each of the customized listings includes a listing of the selected customers that the particular representative represents. The Examiner asserts that it would have been obvious to modify Melchione to achieve a customized listing based on product line or geography, and not a listing of the selected customers that the particular representative represents. Thus, even if one were to modify Melchione according to the Examiner, one would not arrive at the claimed method steps.

Further, the Examiner has not provided any indication of why one would have been motivated to make such a modification to the system or methods of Melchione. As discussed above, just because one could modify a reference to achieve the claimed subject matter, does not provide the motivation necessary for a *prima facie* case of obviousness. The only motivation for modifying Melchione in the manner suggested by the Examiner would appear to come from Appellants' own specification, which is clearly improper.

3. *Claims 2, 3*

Regarding claims 2 and 3, the Examiner asserts that the system of Melchione "provides

detailed access to the sales transactions for each banker and one can view the sales results for the various campaigns to track the performance and make adjustments in the campaign as needed." Emphasis added; see page 8, lines 11-13 and page 9, lines 1-3 of the Office Action. As discussed above, the mere fact that one could modify a reference is not proper motivation to make the modification and is not proper grounds for obviousness.

4. *Claim 10*

Regarding independent claim 10, the Examiner asserts that Melchione teaches the concept of "representatives" and their contact with customers, wherein the branch workstations are deemed equivalent to the term "representative" as they perform the identical function in substantially the same manner and produce substantially the same results. Appellants respectfully disagree. Appellants submit that one of ordinary skill in the art, upon reading the claims and specification would not equate the "representatives" recited in the claims with the branch workstations of Melchione. The claimed method includes the step of providing a customized listing to at least some of the representatives, each of the customized listings including the portion of the selected customers that are represented by the particular representative. Appellants do not understand how a branch workstation can be deemed to "represent" a customer, or how a branch workstation can "elect to provide marketing material...wherein the marketing material is personalized to at least appear to be from the branch workstation. Appellants submit that the branch workstations do not perform the identical function to produce substantially the same results as the claimed representative.

5. *Claims 11-18, 20-24*

Regarding these dependent claims, the Examiner asserts that Melchione teach a system and method that can generate various reports. As discussed above, the mere fact that one could modify a reference is not proper motivation to make the modification, and is not proper grounds for obviousness. With regard to claim 13, the Examiner has asserted that branch workstations are deemed to be equivalent to the claimed "representative." Appellants are particularly unsure how a customer would purchase a product from a branch workstation.

6. *Claim 25*

Regarding independent claim 25, the Examiner asserts, at page 17, lines 2-7 of the final Office Action mailed September 8, 2006, that Melchione teach:

providing a notice announcing the marketing project to one or more of the representatives (); at least some of the representatives reviewing the notice and requesting a customized listing that includes a listing of the portion of the selected customers that are represented by the representative, and determining a marketing project appeal indicator by monitoring how many representatives reviewed the notice and requested a customized listing ().

The Examiner has not provided any indication of where in Melchione the above teachings are found, as evidenced by the empty parentheses. Appellants have not found such teaching in Melchione. The Examiner also asserts that Melchione's teaching of tracking the results of the sales promotion inherently means the representatives were notified of the promotion since they are contacting customers to sell it. Appellants respectfully submit that the bankers merely being passively notified of a promotion does not teach the claimed method step of at least some of the representatives reviewing a notice and actively requesting a customized listing of customers.

The Examiner also asserts that the marketing appeal indicator of claim 25 is a measure of the performance of the marketing plan and is equivalent to Melchione's tracking the performance of the campaign since it performs an identical function in substantially the same manner with substantially the same results. Appellants respectfully disagree. Claim 25 recites a method requiring specific method steps. The steps of capturing daily sales information and viewing sales results for various campaigns taught by Melchione (column 10, lines 1-6) do not perform an identical function or have substantially the same results as the claimed method step of determining a marketing project appeal indicator by monitoring how many representatives reviewed the notice AND requested a customized listing. Melchione does not teach the steps of monitoring bankers who review a notice. Instead, Melchione appears to teach the marketing material being provided automatically from the micromarketing center. Further, Melchione does not appear to teach or suggest the step of monitoring how many representatives requested a customized listing of customers. As stated above, Melchione appears to teach the micromarketing center distributing leads to bankers according to branch managers' directions. Melchione thus does not teach or suggest the specific method steps recited in independent claim 25.

As discussed above, Melchione do not appear to teach the active method step of representatives requesting customized listings. Thus, Melchione cannot be seen to teach or suggest determining a marketing project appeal indicator by monitoring how many

representatives reviewed the notice and requested a customized listing.

7. *Claims 26, 28-30*

Dependent claim 26 specifies that the customized listing of selected customers is provided to one or more of the representatives upon initiation by the representative. The Examiner asserts that Melchione teach, in FIG. 1A, the Micromarketing centers as requesting information from the database to obtain the customer information, and now asserts that the micromarketing center is the "representative." Independent claim 25, from which claim 26 depends, recites "each representative represents a portion of the customers". The Examiner previously asserted that the personal bankers of Melchione are equivalent to the "representatives" in the claims. Appellants submit that the micromarketing center taught by Melchione is not equivalent to the "representatives" in the claimed methods because Melchione teaches the micromarketing center as providing information to the personal bankers through a branch manager, who then contact customers. Melchione does not appear to teach or suggest the personal bankers initiating a customized listing of customers to be sent to them. Melchione thus cannot be seen as teaching or suggesting the elements of claim 26.

Regarding claim 29, the Examiner asserts that Melchione's teaching that leads are distributed among selected bankers within the branch anticipates the method step of providing a customized listing of selected customers to a particular representative where the list only includes customers that the particular representative represents. Appellants respectfully disagree. As noted above, Melchione teaches the branch manager determining which banker gets which leads based on which banker is most qualified to handle the leads or based on the workload and availability of the bankers. See column 9, lines 49-52. Melchione thus appears to teach a branch bank with a set of customers, and the bank managers decide which customers are to be handled by certain bankers, where the particular set of customers being contacted by a particular banker changes depending the banker's availability or qualifications. Melchione does not appear to teach a method in which each customer is represented by a particular representative, and the representative receives a listing of customers for which the marketing material is particularly relevant, where the only customers on the list are those that the representative already represents, as in claim 29. Thus, while all of selected customers on the list generated based on the marketing project parameters are customers of the business, a subset of those customers are represented by a

particular representative, and the method of claim 29 recites that the customized listing of customers provided to a particular representative includes only those customers already represented by that representative. Melchione does not teach or suggest such a method.

8. *Claim 36*

Regarding independent claim 36, the Examiner asserts that the claim recites the same limitations as claims 1 and 3 and is therefore subject to the same art rejections. Melchione does not appear to teach or suggest each and every element of independent claim 36 for at least the reasons set forth above. Additionally, claim 36 recites the step of providing a customized listing of customers, wherein customers are represented by a single representative. For at least the reasons set forth above, Melchione does not appear to teach customers represented by any particular representative and thus cannot be deemed to teach customers represented by a single representative.

D. Claims 19 and 31-35 are patentable under 35 U.S.C. § 103(a) over Melchione et al. (U.S. Patent No. 5,930,764) in view of 17 CFR Part 248.

Claims 19 and 31-35 are rejected as being unpatentable over Melchione in view of 17 CFR Part 248, which is a financial services regulation related to Privacy of Consumer Information. Appellants respectfully traverse the rejection. As discussed above, Melchione does not appear to teach or suggest the basic elements of independent claim 10, from which claim 19 depends. 17 CFR Part 248 does not appear to provide what Melchione lacks, thus any combination of the references must also fail to teach or suggest each and every element of dependent claim 19.

Additionally, there does not appear to be any motivation for combining the teachings of Melchione and 17 CFR Part 24. The Examiner asserts that the motivation to combine the references is the fact that federal law requires adherence to the regulations. Appellants submit that the mere presence of regulations relating to consumer privacy does not provide any motivation, guidance or suggestion for one of ordinary skill in the art to modify the database of Melchione. Presumably, there are many ways to comply with federal regulations.

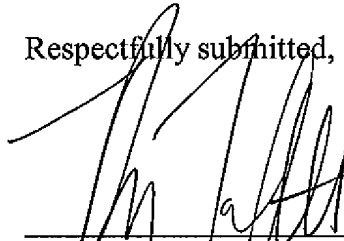
Independent claim 31 recites in part, the steps of generating marketing material, wherein at least part of the marketing material includes textual matter, checking the marketing material for compliance, and representatives providing the compliant marketing material to at least some

of the customers on their customized listing of selected customers. Melchione does not appear to teach a method in which textual marketing material is checked for compliance, providing the compliant marketing material and a customized listing of selected customers to at least some of the representatives (bankers), and then bankers providing the textual marketing material to at least some of the customers on their customized listing of selected customers. The 17 CFR Part 24 regulations do not provide what Melchione lack, thus any combination of Melchione and the regulations must also fail to teach or suggest each and every element of the claims.

E. Conclusion.

For the reasons stated above, the rejection of claims 1-6, 8-26, and 28-36 under 35 U.S.C. § 112, first paragraph, the rejection of claims 1, 10, 11, 25, and 31 under 35 U.S.C. § 112, second paragraph, the rejection of claims 1-18, 20-30, and 36 under 35 U.S.C. § 103(a) over Melchione et al. (U.S. Patent No. 5,930,764), and the rejection of claims 19 and 31-35 under 35 U.S.C. § 103(a) over Melchione et al. (U.S. Patent No. 5,930,764) in view of 17 CFR Part 248 should be reversed.

Respectfully submitted,



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VIII. CLAIMS APPENDIX

1. A method for monitoring the efficacy of a marketing project for a product of a business, wherein the business has a number of representatives, and each representative represents particular customers of the business, the method comprising the steps of:

providing a customer database for storing information about the customers of the business;

providing a number of marketing project parameters;

applying the number of marketing project parameters against the information in the customer database to identify selected customers;

providing a customized listing of customers to at least selected representatives, wherein each of the customized listings includes a listing of the selected customers that the particular representative represents;

generating marketing material for the marketing project;

providing the marketing material to each of the representatives that receives a customized listing;

at least some of the representatives sending the marketing material to at least some of the selected customers listed in their customized listing, wherein at least part of the marketing material includes textual matter;

determining which or how many of the customers that were sent the marketing material by their representative actually purchased the product; and

determining a marketing project efficacy indicator by noting which or how many of the customers that were sent the marketing material by their representative actually purchased the product.

2. A method according to claim 1 wherein the marketing project efficacy indicator is determined by comparing the number of customers that were sent the marketing material by their representative with the number of the customers that were sent the marketing material by their representative and actually purchased the product.

3. A method according to claim 1 wherein the marketing project efficacy indicator is

determined by comparing the number of customers that were sent the marketing material by their representative with the number of the customers that were sent the marketing material by their representative and did not purchased the product.

4. A method according to claim 1 further comprising the step of monitoring revenues generated from the purchase of the product by the customers that were sent the marketing material by their representative.

5. A method according to claim 4 wherein the marketing project efficacy indicator is determined by comparing the revenues generated from the sale of the marketed product relative to a revenue goal.

6. A method according to claim 1 wherein the marketing project efficacy indicator is determined by comparing the number of products sold versus a goal.

8. A method according to claim 1 further comprising the steps of;
modifying the marketing material if the marketing project efficacy indicator is deemed to be too low.

9. A method according to claim 1 further comprising the step of:
modifying selected marketing project parameters if the marketing project efficacy indicator is deemed to be too low.

10. A method for marketing a product to customers of a business, wherein the business has a number of representatives, and each representative represents particular customers, the method comprising the steps of:

providing a customer database for storing information about the customers of the business;

providing a number of marketing project parameters;

applying the number of marketing project parameters against the information in the

customer database to identify selected customers;

providing a customized listing to at least some of the representatives, each of the customized listings including the portion of the selected customers that are represented by the particular representative;

at least some of the representatives electing to provide marketing material about the product to at least some of their customers listed on their customized listing, wherein the marketing material is personalized to at least appear to be from the representative, wherein at least part of the marketing material includes textual matter.

11. A method according to claim 10 further comprising the steps of:
monitoring how many and/or which of the customers that were provided marketing material about the product actually purchased the product from their representative.

12. A method according to claim 11 further comprising the steps of:
determining a marketing project efficacy indicator for the marketing project by examining which of the customers that were provided with marketing material about the product actually purchased the product.

13. A method according to claim 12 wherein the marketing project efficacy indicator is determined by comparing the number of customers that were provided marketing material with the number of those customers that were provided marketing material that actually purchased the product from a representative of the business.

14. A method according to claim 11 further comprising the step of:
determining common characteristics for those customers that actually purchased the product from a representative of the business.

15. A method according to claim 10 further comprising the steps of:
monitoring how many and/or which of the customers that were provided marketing material about the product did not purchased the product from their representative of the

business.

16. A method according to claim 15 further comprising the steps of:
determining a marketing project efficacy indicator for the marketing project by examining which of the customers that were provided with marketing material about the product did not purchase the product.

17. A method according to claim 16 wherein the marketing project efficacy indicator is determined by comparing the number of customers that were provided marketing material with the number of those customers that were provided marketing material that did not purchased the product from a representative of the business.

18. A method according to claim 15 further comprising the step of:
determining common characteristics for those customers that did not purchase the product from a representative of the business.

19. A method according to claim 10 wherein the business is a financial services business, the method further comprising the steps of:
generating the marketing material;
checking the marketing material for compliance with applicable rules and regulations, thereby resulting in compliant marketing material;
providing the compliant marketing material, as well as the customized listing of selected customers, to each of the representatives that received a customized listing.

20. A method according to claim 10, wherein the customized listing of the selected customers is provided to each of the representatives that received a customized listing in a format that is compatible with printing labels.

21. A method according to claim 10, wherein the customized listing of the selected customers is provided to each of the representatives that received a customized listing in a format

that is compatible with printing envelopes or post cards.

22. A method according to claim 10, wherein the customized listing of the selected customers is provided to each of the representatives that received a customized listing in a format that is compatible with a merge function of an application program.

23. A method according to claim 10, wherein the customized listing of the selected customers is provided to each of the representatives that received a customized listing in a format that is compatible with a spreadsheet application program.

24. A method according to claim 10, wherein the customized listing of the selected customers is provided to each of the representatives that received a customized listing in a format that is compatible with an e-mail program.

25. A method for marketing a product to customers of a business, wherein the business has a number of representatives, and each representative represents a portion of the customers, the method comprising the steps of:

- providing a customer database for storing information about the customers of the business;

- providing a marketing project having a number of marketing project parameters;

- applying the number of marketing project parameters against the information in the customer database to identify selected customers;

- providing a notice announcing the marketing project to one or more of the representatives;

- at least some of the representatives reviewing the notice and requesting a customized listing that includes a listing of the portion of the selected customers that are represented by the representative; and

- determining a marketing project appeal indicator by monitoring how many representatives reviewed the notice and requested a customized listing.

26. A method according to claim 25 wherein the customized listing of selected customers is provided to one or more of the representatives upon initiation by the representative.

28. A method according to claim 25 further comprising the step of:
making a contact entry in the customer database when a representative contacts a customer about the product; and
determining a marketing project appeal indicator by monitoring the contact entries in the customer database.

29. A method according to claim 25 wherein the customized listing of the selected customers that is provided to a particular representative only includes customers that the particular representative represents.

30. A method according to claim 25 wherein an identifier for each customer that actually purchased the product is generated by having each representative initiate the recording of each sale of the product in the customer database.

31. A method for marketing a product to customers of a business, wherein the business has a number of representatives, and each representative represents particular ones of the customers of the business, the method comprising the steps of:

generating marketing material, wherein at least part of the marketing material includes textual matter;

checking the marketing material for compliance with applicable rules and regulations, thereby resulting in compliant marketing material;

providing a customer database for storing information about the customers of the business;

providing a number of marketing project parameters;

applying the number of marketing project parameters against the information in the customer database to identify selected customers;

providing the compliant marketing material and a customized listing of the selected

customers to at least some of the representatives; and

at least some of the representatives providing the compliant marketing material to at least some of the customers listed on their customized listing of selected customers.

32. A method according to claim 31, wherein the rules and regulations are related to a particular product.

33. A method according to claim 31 further comprising the steps of:
monitoring how many and/or which of the customers that were actually provided marketing material about the product actually purchased the product from their representative.

34. A method according to claim 33 further comprising the steps of:
determining a marketing project efficacy indicator for the marketing project by comparing the number of customers that were actually provided marketing material with the number of those customers that were actually provided marketing material that actually purchased the product from their representative.

35. A method according to claim 31 further comprising the step of:
determining common characteristics for those customers that actually purchased the product from their representative.

36. A method for monitoring the efficacy of a marketing project for a product of a business, wherein the business has a number of representatives, each representative represents particular customers of the business, and the customers of one representative are only represented by that representative, the method comprising the steps of:

providing a customer database for storing information about the customers of the business;

providing a number of marketing project parameters;

applying the number of marketing project parameters against the information in the customer database to identify selected customers;

providing a customized listing of customers to at least selected representatives, wherein each of the customized listings includes a listing of the selected customers that the particular representative represents, wherein customers are represented by a single representative;

generating marketing material for the marketing project;

providing the marketing material to each of the representatives that receives a customized listing;

at least some of the representatives sending the marketing material to at least some of the selected customers listed in their customized listing;

determining which or how many of the customers that were sent the marketing material by their representative actually purchased the product; and

determining a marketing project efficacy indicator by noting which or how many of the customers that were sent the marketing material by their representative actually purchased the product.

IX. EVIDENCE APPENDIX

No additional evidence has been presented.

X. RELATED PROCEEDINGS APPENDIX

No decision has been received on the related appeal in US Patent Application No. 09/917,120.